

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ANTHONY PAUL DABROWSKI, JR.,	:	
Plaintiff	:	
	:	
v.	:	CA. # 1:20 - cv - 142
	:	
OFFICER JOSHUA ALLISON and CITY	:	
OF ERIE POLICE DEPARMENT,	:	
Defendants	:	

AMENDED MOTION TO DISMISS COMPLAINT

AND NOW, come defendants, by and through their attorney, Catherine Doyle, and files this Amended Motion to Dismiss plaintiff's complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) as follows:

1. Plaintiff instituted this lawsuit against Officer Joshua Allison and the City of Erie Police Department on or about June 8, 2020.
2. Plaintiff's claims arise out of an incident which occurred on or about July 8, 2018.
3. On July 8, 2018, Plaintiff called the Erie Police Department to report a friend's stolen vehicle.
4. The investigating officers determined that the vehicle was not stolen.
5. Plaintiff appeared intoxicated and argumentative. Plaintiff was asked to leave. He began to walk away but then turned around and continue to argue and be disruptive. Ex. 1, Police Criminal Complaint, pgs. 9 - 11.

6. Plaintiff alleges he made the following comment, “I called to report a stolen vehicle. If you were doing your jobs you would realize the vehicle is stolen. I’ll never call the police for anything again.” See Complaint, page 5.

7. In his Complaint, Plaintiff alleges that he was arrested and “punched” in the face by one officer and then kicked in the rib cage by a seventh officer. See Complaint, page 4.

8. As a result of this incident, Plaintiff plead guilty to use/possession of drug paraphernalia. Ex. 2, Criminal Docket Sheet.

9. In his Complaint, Plaintiff alleges that Officer Allison violated his First, Fourth, Eighth and Fourteenth Amendment rights.

10. Plaintiff has also included the City of Erie Police Department as a Defendant in this matter but has failed to assert a cause of action against the City of Erie Police Department.

11. Officer Allison and the City of Erie Police Department filed a Motion to Dismiss and Brief in Support as Plaintiff has failed to set forth a viable First Amendment retaliation claim and any claim against the City of Erie Police Department.

12. By Order of Court dated July 28, 2020, this Court denied the Motion to Dismiss without prejudice. The Order required that the Motion to Dismiss be accompanied by a certificate stating that “movant made good faith efforts to confer with nonmovant to determine whether the identified pleading deficiencies properly may be cured by amendment.” See ECF No. 7

13. Attached as Exhibit 3 is a certificate of conferral. The undersigned has made several attempts to confer with plaintiff. While plaintiff has acknowledged receipt of correspondence, plaintiff has not made any attempts to cure the deficiencies raised in the Motion to Dismiss. See Exhibit 3.

WHEREFORE, Defendants, Officer Joshua Allison and the City of Erie Police Department respectfully request that this Honorable Court GRANT their Motion to Dismiss the Complaint.

Respectfully submitted,

/s/ Catherine M. Doyle

Catherine M. Doyle, Esquire

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Joshua Allison and the City of Erie

Police Department